

**None Of The Prior Art Of Record Suggests Or Discloses Limiting Access To Goods**

**Of Seller Based On Predetermined Buyer Criteria.**

All of independent claims 1, 10, 27 40 and 44 require:

5                   **classifying the goods according to a pre-selected set of criteria  
selected by the seller, the pre-selected set of criteria including  
data relating to buyers that are to be denied access to the  
goods, the data relating to buyers including at least one  
characteristic selected from the following categories of  
characteristics:**

10                   **trade classification;  
type of retailer; and  
type of industry**

15                   The specification as originally filed provides a concise summary of one of the possible  
practical implementations, by non-limiting example, of the above language of the independent  
claims:

20                   The system associates the seller's buyer restrictions with the sellers' listed goods by way  
of database. This is a key means by which sellers can block buyers from accessing the sellers  
goods listed on the system. The ability of sellers to block buyers reduces the problems of  
channel conflict. Sellers are able to select from a set of standardized classifications relating to all  
aspects of the information that the system has related to buyers pursuant to buyers information  
collected as set out in Figure 2.

25                   The types of criteria from which sellers may choose  
relating to buyers include the following: the type of company  
restricted from purchasing the goods; the particular type of retailer  
restricted from purchasing the goods; the type of buyer in a  
restricted goods industry; geographical region of business,  
classified by continent and then by constituent countries and, if  
applicable, constituent regions and the name of the buyer.

The type of company restricted from purchasing the goods generally includes the following: retailers; manufacturers; importers; exporters and wholesalers.

5 The particular type of retailer restricted from purchasing the goods generally includes the following: mass-market discounters; drug chains; supermarkets; specialty; gift; warehouse clubs; deep-discounters and general merchandiser.

10 The type of buyer in a restricted goods industry includes the following: apparel and jewelry; children and hobby; domestic chemicals; electronics; food and drinks; general merchandise; health and beauty care; household; publishing; seasonal; sports and fitness and stationary and office.

15 Sellers may choose different sets of criteria for each good they list on the system. For example, a seller's surplus hand soap may be available to company ABC whereas the seller's surplus dish detergent is not. Sellers may also choose to be anonymous, such that even buyers which satisfy the criteria associated with a seller's goods will not be provided with the identity of the seller.

20 Sellers inputted data relating to the their surplus goods, the classifications of such goods and the related buyer criteria are cross referenced within the system by way of an electronic database 7. The cross referencing permits the system to filter the listed goods in response to a buyer's queries. Without cross referencing, the system would not be able to effectively avoid channel conflict  
25 problems. Channel conflict results when retail and surplus goods

buyers are selling the same good, to the same market, at the same time, but for different prices, retail and discount. Channel conflict creates significant problems for the seller of the goods at issue.

Generally, the retail buyer demands to be reimbursed for the premium paid for the goods and as such the seller's profit margin is reduced. The data on the system is also stored in an indexed manner based on the cross references. As such, the data is searchable based on any piece of collected information related thereto.

The listed and cross referenced data is stored on the system in a secured manner such that only authorized buyers are granted access 9. The need to secure the data and limit access to it is critical for the success of the system. Sellers need to have confidence that their business decisions relating to the sale of their surplus goods is not available to any buyers which do not satisfy the sellers' criteria. The data can be secured by way of limited system access which requires buyers to be authorized for access as is shown in Figure 2.

(Page 13, line 4 through page 15, line 2 of the Specification).

Hence, unlike the prior art cited in the Background of the Invention portion of the application, as well as Liquidation.com, Food/MarketExchange.com and MRIS.com cited in the December 12, 2002 Office Action (all of which are merely cumulative of the prior art cited in the Background of the Invention), the subject invention does not provide a binary "in-or-out" approach to website access by buyers, but instead employs a heretofore unknown and unique selective functionality to buyer access of the buyer-seller website whereby a **buyer who is admitted to the website can**

**be excluded from certain specific portions of the website based on whether the buyer meets the seller's admission criteria.**

Turning to the rejection of all of the pending independent claims, pursuant to 35 USC 103 based on Liquidation.com in view of FoodMarketExchange.com (and in which MRIS.com was parenthetically referenced) in the December 12, 2002 Office Action, it is conceded on paper 4 of the Office Action that Liquidation.com does not disclose category selection "for" buyers. Nor does Liquidation.com disclose category selection "of" buyers, which is the inventive aspect of the independent claims currently under discussion. The Office Action then states this feature is disclosed in Food/MarketExchange.com, with parenthetical reference to MRIS.com. Applicant respectfully disagrees.

Both FoodMarketExchange.com and MRIS.com only disclose the well known "in-or-out" website access for potential users i.e., the user is "in" if the user meets the initial admission qualifications for the website and the user is "out" if not. **And once "in", the user has access to the entire website.** The Office Action admits this functionality of MRIS.com when it states, on page 4 thereof: "For example, for searching for real estate Metropolitan Regional Information Systems, Inc. (MRIS) restricts usage of its intranet system to licensed Real Estate Agents only, whereas, MRIS provides internet access (www.homesdatabase.com) to the general public for searching homes." Thus, either a user is admitted to the **entire** MRIS.com site, or not.

Regarding FoodMarketExchange.com, attached hereto as Exhibit 1 is a print-out of the FAQ pages and Registration pages therefrom, dated June/July 2001. These web pages show that all applicants for registration, both buyers **and sellers**, must pass a simple background check based on the very general information supplied in the completed Registration pages. Importantly, as stated in the highlighted portion of the FAQ pages of Exhibit 1 under "Who can trade on FoodMarketExchange.com?":

FoodMarketExchange.com is **open to all food buyers and sellers** as soon as they provide a confidential corporate profile online...Once an applicant passes certain simple requirements, you are on your way to enjoy the convenience and efficiency of FoodMarketExchange.com

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There is not so much as even a hint that a buyer, after passing the generic buyer and seller background check would be granted anything other than free reign of the FoodMarketExchange.com website, as would a seller. This is indeed the case.

Thus, neither MRIS.com nor FoodMarketExchange.com either disclose or suggest  
10 applicant's buyer website access filtering system whereby a buyer who is admitted to the website is excluded from certain portions of the website based on whether the buyer meets the sellers admission criteria.

For the reasons stated above, applicant respectfully requests that the pending claims be allowed and that the subject application pass promptly to issuance.

#### CERTIFICATE OF MAILING

I hereby certify that the following mail is being deposited with the U.S. Postal Service, Post Office Addressee via First Class Mail addressed to Mail Stop RCE Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on June 9, 2003

SARAH MARCIANO

Name of Person Depositing Mail

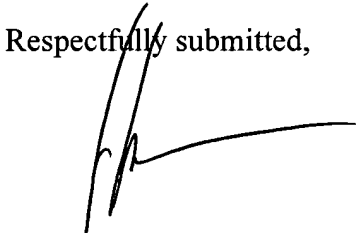
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June 9, 2003

Date

Respectfully submitted,

  
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